

24. (Amended) The temperature-control curtailment module as defined in claim 23 wherein the history data relates to the temperature control device and wherein the memory is programmed with history instructions for storing the history data.

REMARKS

Applicants have amended claims 1, 6, 8, 9, 11, 13, 16, 18, 20, 22 and 24. The amended claims clarify elements of the invention which are not disclosed or suggested in the cited references. Accordingly, it is submitted that new independent claims 1, 11, 16, 20 and 22, as well as their dependent claims, define patentable inventions, and therefore the application is believed to be in condition for allowance, notice of which is earnestly requested.

Applicants thank the Examiner for the consideration given during the telephonic interview of January 14, 2003. In that interview, the Examiner and the attorney of record discussed with the Examiner the invention, the prior art and the amendments made by this Amendment.

A. Claims 1-5 and 7-9 Rejected under 35 U.S.C. § 102

The Examiner has rejected claims 1-5 and 7-9 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,640,153 ("Hildebrand").

Applicants' invention is novel and claims 1-5 and 7-9 are not anticipated by Hildebrand. Hildebrand does not disclose each and every element of the claimed invention. Further, the amendments made by the Applicants further distinguish Applicants' claimed invention from Hildebrand.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (July 1998) (*citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the . . . claim." M.P.E.P. § 2131 (July 1998) (*citing Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)).

Regarding claims 1, Hildebrand does not disclose "and the memory being programmed with verification instructions to generate a verification code to be used by a user to manually verify whether the request was followed, wherein the history data is not the same as the verification code." *Claim 1.* Hildebrand discloses storing logged data. *Hildebrand, Col. 9.* This

logged data of Hildebrand is analogous to the history data of Applicants' invention. However, Hildebrand does not disclose "verification instructions to generate a verification code." *Claim 1*. The "history data is not the same as the verification code." *Id.* The verification code is "to be used by a user to manually verify whether the request was followed." *Id.* In contradistinction, Hildebrand's embodiments automatically send the logged information back to the sending location.

As discussed in the detailed description of Applicants patent application, the verification code may be used for cost savings. *Detailed Description, Page 6, lines 7-28; page 7, lines 18-20; page 11, lines 22-28; page 12, lines 24-26.* Hildebrand does not disclose, nor does it suggest the use of a verification code for cost savings to the user. Use of the verification code for manual verification of curtailment also benefits the system provider because some users may not be willing to take the time to manually verify curtailment, and thus the system provider would not have to give credit or savings to that user, even though he or she may have curtailed their energy use. Thus, requiring manual verification of curtailment may result in cost savings to the system provider as well.

The other independent claims also include the aforementioned claims elements not disclosed by Hildebrand. Because Applicant has shown that Hildebrand does not show each and every element of the independent claims, Applicant has also shown that Hildebrand does not disclose each and every element of the dependent claims.

B. Claims 6-26 Rejected under 35 U.S.C. § 103

The Examiner has rejected claims 6-26 under 35 U.S.C. § 103(a) as being unpatentable over Hildebrand in combination with Brown (U.S. Pat. No. 5,544,036) and/or Moughanni (U.S. Pat. No. 5,608,655).

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. M.P.E.P. § 2142.

A prima facie case of obviousness has not been established regarding claim 6-26 because the prior art cited does not teach or suggest all the claim limitations. The claim limitations of claims 6-26 include "verification instructions to generate a verification code" that is "used by a user to manually verify whether the curtailment message was followed", and "wherein the history data is not the same as the verification code". As discussed above, None of the references disclose nor do they suggest these claims limitations. In the event that the Examiner finds any remaining impediment to the prompt allowance of any of these claims which could be clarified in a telephone conference, the Examiner is respectfully urged to initiate the same with the undersigned.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Claims 1, 6, 8, 9, 11, 13, 16, 18, 20, 22 and 24 have been amended as follows:

1. A curtailment module for enabling an energy provider to send a request to curtail energy use to a user, the curtailment module comprising:
 - an interface for electronic communications with a temperature control device;
 - a paging module for receiving the request from the energy provider through a paging network;
 - a processor in electronic communication with the paging module for receiving the request from the paging module; and
 - memory in electronic communication with the processor, the memory storing history data, and the memory being programmed with verification instructions to generate a verification code to be used by a user to manually verify whether the request was followed, wherein the history data is not the same as the verification code.
6. The curtailment module as defined in claim 1 wherein the history data relates to the temperature control device and wherein the memory is further programmed with instructions to cause the processor to store the history data [relating to the temperature control device] in the memory.
8. The curtailment module as defined in claim 1, wherein the verification instructions use a device ID and the history data in generating the verification code.
9. The curtailment module as defined in claim 1, wherein the verification instructions use a device ID, the history data and a curtailment message in generating the verification code.

11. A curtailment module for enabling an energy provider to send a curtailment message to a remote structure, the curtailment module comprising:

an interface for electronic communications with a temperature control device;

a paging module for receiving the curtailment message from the energy provider through a paging network;

a processor in electronic communication with the paging module for receiving the curtailment message from the paging module;

memory in electronic communication with the processor, the memory storing history data, and the memory being programmed with verification instructions to generate a verification code to be used by a user to manually verify whether the curtailment message was followed, wherein the history data is not the same as the verification code;

a display for outputting information to a user; and

an input device for enabling the user to enter a user input.

13. The curtailment module as defined in claim 12 wherein the history data relates to the temperature control device and wherein the memory is programmed with history instructions for storing the history data[relating to the temperature control device].

16. A curtailment module for enabling an energy provider to send a curtailment message to a remote structure, the curtailment module comprising:

means for interfacing the curtailment module with a temperature control device;
means for receiving the curtailment message from the energy provider through a paging network;
means for processing, the processing means being in electronic communication with the receiving means for receiving the curtailment message;
memory in electronic communication with the processing means, the memory storing history data, and the memory being programmed with verification instructions to generate a verification code to be used by a user to manually verify whether the curtailment message was followed, wherein the history data is not the same as the verification code;
means for displaying information to a user; and
means for inputting by the user, the inputting means enabling the user to enter a user input.

18. The curtailment module as defined in claim 17 wherein the history data relates to the temperature control device and wherein the memory is programmed with history instructions for storing the history data[relating to the temperature control device].

20. A method for requesting that energy use be curtailed at a structure and for verifying curtailment, the method comprising:

creating a curtailment message to send to the structure;
sending the curtailment message to the structure through a pager network;
receiving the curtailment message by a curtailment module at the structure;
displaying the curtailment message at the structure;
monitoring a temperature control device in electronic communication with the curtailment module;
saving history data that relates to settings from the temperature control device;
generating a verification code to be used by a user to manually [that]verify[ies] whether the curtailment message was followed, wherein the history data is not the same as the verification code; and
displaying the verification code at the structure for the user.

22. A combination temperature-control curtailment module for enabling an energy provider to send a curtailment message to a remote structure, the temperature-control curtailment module comprising:

a temperature control module for controlling the temperature of the remote structure;
a paging module for receiving the curtailment message from the energy provider through a paging network;
a processor in electronic communication with the paging module for receiving the curtailment message from the paging module;
memory in electronic communication with the processor, the memory storing history data, and the memory being programmed with verification instructions to generate a verification code to be used by a user to manually verify whether the curtailment message was followed, wherein the history data is not the same as the verification code;
a display for outputting information to a user; and
an input device for enabling the user to enter a user input.

24. The temperature-control curtailment module as defined in claim 23 wherein the history data relates to the temperature control device and wherein the memory is programmed with history instructions for storing the history data[relating to the temperature control module].